

CIVIL LIBERTIES AND THE COMMUNISTS

Checking Subversion Without Harm to Democratic Rights

ROBERT BENDINER

GONE are the days when only the so-called butcher-paper magazines printed articles about threats to civil liberties. Today almost any periodical you pick up is likely to have a piece on the subject.

The *Ladies Home Journal* for January carried two pages by Dorothy Thompson on "How to Protect Civil Liberties" without giving the country to the Communists. *Life* recently put the solemn editorial question "Is There a Witch Hunt?" *Harper's* followed an impassioned plea for calmness by Henry Steele Commager, entitled "Who is Loyal to America?" with James A. Wechsler's suggestions on "How to Rid the Government of Communists." And *Collier's* has had Charles Luckman explain to its readers that "Civil Rights Means Good Business."

The *New York Times Magazine* paid its respects to the thorny subject with a report on the effects abroad of the breach between our pretensions and our practices, while the

Herald Tribune of the same city featured for several days a running debate between its editors and E. B. White over the firing of the ten Hollywood screenwriters, with dozens of correspondents joining in by way of the letter columns. Labeling himself "member of a party of one," White suggested that the paper's editorial writer, who had made out a case for the movie producers, had "tripped over the First Amendment and thought it was the office cat"; for which the *New Yorker* editor was, in turn, upbraided, along with all other such gentle anarchists, as "probably the most dangerous single elements in our confused and complicated society." Thus the Bill of Rights emerges from the appendix of schoolbooks into the arena of everyday affairs, debated and scraped over in print—and over the air as well—by a people not normally given to political abstractions.

Why this sudden preoccupation? Is our whole system of civil rights really being undermined by jittery officials—or are the jitters all on the other side, deliberately stimulated by those whose interest is to have us believe the worst of our government? Twenty-two learned men of the Yale Law School see "alarming signs that persecution for opinion, if not soon curbed, may reach a point never hitherto attained even in the darkest periods of our history." On the other hand, everyone agrees that never has a government commission taken so forthright a stand as the President's Committee on Civil Rights, even in the brightest periods of our history. Nor, perhaps, was there ever a time when so many Americans were so actively vigilant to spot and protest against encroachments on our liberties.

Clearly neither of the questions put above can be answered with a flat affirmative.

IS THERE a witch hunt in America? Recent efforts to eliminate Communists from government activities, along with the proposed anti-Communist legislation now before Congress, present a problem of extraordinary complexity to those concerned with the preservation of civil liberties in this country. ROBERT BENDINER, who here seeks to penetrate the hysteria and disingenuousness which have surrounded this question, is well known as a liberal writer on politics and foreign relations. He is now associate editor of the *Nation* and was managing editor of that periodical for six years before the war. He has published scores of articles in the *Nation* and other liberal publications, including *Tomorrow* and the *American Mercury*, and was a correspondent for *Yank* while in the army during the past war. He has also published a book, *The Riddle of the State Department* (1942). Mr. Bendiner was born in Pittsburgh, Pennsylvania, in 1909.

There is obviously some hysteria in high places, of both the genuine and synthetic varieties, and there is counter-hysteria in the country, likewise both real and simulated. The problem is to dig through the layers of hypocrisy on both sides, to consider the motives of the propagandists, and then see where we find ourselves.

GIVEN their determination to discredit the Truman administration, it is natural for the Communists and their allies to find in Washington today a perfect parallel with the period of A. Mitchell Palmer. "Witch hunt"—"thought police"—"Gestapo terrorism"—"police state"—these are a few of the terms used to suggest the parallel. Undeniably the two periods have points in common, but the present "red scare" is watered milk compared with the violent brew offered by the combined forces of the FBI and the burgeoning American Legion in the early 20's. That campaign was aimed primarily at the growing trade-union movement, with the IWW taking the brunt of the attack. "Bolshevik" was the universal label for all dissidents, and deportation and violence were the order of the day. On the night of January 2, 1920, Palmer's men, throwing a dragnet from coast to coast, arrested literally thousands of "undesirables"—more than eight hundred in the Boston area alone. Most of them were freed in time, after such humiliations as being paraded through city streets in handcuffs and chains, but hundreds were shipped off to Europe after the most summary and prejudiced hearings. With the unofficial but effective aid of the Legionnaires and the cooperation of local police, the anti-Bolshevik crusaders smashed meeting halls, clubbed heads, searched and seized without regard for legalities, and in general put on as brazen a show as the world was to see until the appearance of the *Sturmabteilung*. Political lynchings took place in Centralia and Butte, strikers were commonly forced by the police to kneel and kiss the flag, and the legislature of New York State expelled a number of properly elected assemblymen solely because they

were known members of the Socialist party.

Those were terrifyingly dark days for civil liberties—dark enough to make one wonder at the sweeping assertions of the Yale professors. Far from seeking to outlaw the Communists, the same J. Edgar Hoover who served under Palmer now specifically asks Congress not to drive the party underground and thereby make harder the job of checking on its activities. It is true that there have been noisy and, in two instances, violent demonstrations at meetings for Henry Wallace, and that a university has taken repressive action against a pro-Wallace professor. Such incidents show that the rule of law and liberty is by no means as inviolable as it should be. But the response to these performances in the country at large is hardly encouraging to a revival of the rough-house technique. Far from winning the approval they would have had in 1920, the strong-arm devotees of 1948—and they are fortunately few so far—have been widely condemned in the press and denounced by the President.

If, in view of this comparison, the cries of hysteria raised on the Left are in themselves somewhat hysterical, it does not follow that the current threat to civil rights is to be taken lightly, or that we do not face a serious problem. On the contrary, the present crisis is more significant because so much more complicated. The Palmer onslaught was as simple as it was crude. The war and the stepped-up pace of industrialization had given labor organizations an impetus that was a threat not to the political life of the nation but solely to the profits of industry. The Legion openly placed itself at the service of big business, whose creature indeed it was, and the resulting series of clashes, combined with the inevitable postwar xenophobia and the crumbling of the Wilson administration, produced a black-and-white struggle in which the attorney general quite simply placed the FBI at the disposal of industry. Liberals knew their place in that struggle, they were oppressed by no inhibitions, and they found all the philosophic and forensic ammunition

they needed in the ideas of Voltaire and Jefferson.

But the world has changed considerably since then, and to many a democratic citizen today the concepts of the 18th-century libertarians no longer suffice. The propagandists for totalitarianism have shown how easy it is to turn the very arguments of the libertarians against them and to murder freedom in the name of freedom. Professional fighters for civil rights are divided today as they have never been before, and this, I think, is more significant by far than any actual repression so far introduced or contemplated. The sharpness of the differences that have arisen among liberals indicates that some assumptions casually and traditionally made in democratic circles require reconsideration in the light of new problems. Perhaps the best way to begin is to view these differences against the background of the issue that inspires them.

THE present issue, bluntly, is Communism. In a larger sense, of course, it is political totalitarianism of all sorts. In the days before the war the question of how to handle the Christian Front was more pressing than that presented by the Communists, just as the Mosley movement is the major headache for civil libertarians in Britain today. But this is not the moment for American fascists, who have had no spiritual—or financial—fatherland since the collapse of Germany (their turn will no doubt come again when and if we have a depression). The Communists, however, have for years been an increasingly troublesome problem to civil libertarians. It is not that anyone in his senses considers them a revolutionary threat to the republic, nor that they think of themselves in any such romantic fashion. Numerically they are insignificant, unable after thirty years to muster enough votes in New York State to retain their place on the ballot. But for all their weakness in numbers, and in spite of their remoteness from any revolutionary ambition, they are a source of untold mischief in a way that is unique in the history of this country and uniquely

difficult for protectors of civil liberties to cope with. The several levels on which this mischief is carried out call for examination.

The Communists operate, to begin with, as a gigantic violation of the unwritten but generally accepted political counterpart of the Pure Food and Drug Act. That is, they depend for sales on false labeling. Except for full-time party functionaries, extremely few Communists ever present themselves as such. They are always "left-wingers," "progressives," or "democrats." Their schools are named not for Marx or Lenin or Stalin, but for Jefferson, Sam Adams, and Walt Whitman—men whose doctrines of political freedom could not survive five minutes in a Soviet classroom. And after years of persistent propaganda, the Communists have somehow succeeded in making thousands of otherwise sensible people believe that to call a Communist a Communist is sinful and a violation of his political rights; further, that it contributes to "red-baiting" and therefore "gives aid and comfort to the enemy."

Responding to this argument, many liberals have contributed to what amounts to a three-way conspiracy for muddying the waters of American political and cultural life. Hard-shelled reactionaries, exemplified by the Thomas committee, knowingly and purposefully lump together as Reds everyone from Eleanor Roosevelt leftward to William Z. Foster. The Communists, wanting nothing more than to pass themselves off as good honest democrats, are benefited enormously by being placed in the same camp with a sector of the population far larger than their own, more acceptable socially, and far stronger politically. The resulting confusion affords them a perfect cover. Where every progressive is painted red, who is to know the real Communist from the New Dealer, the totalitarian from the democrat? Thus the extremists on both sides are satisfied. But what do the liberals themselves have to gain from this confusion that they should go to such pains to increase it? The blunt answer is, ultimate extinction. By blurring the difference between themselves and the Communists, by fuzzily

thinking of themselves as somehow joined with the Communists in a common cause, the liberals have allowed their institutions to be infiltrated bit by bit by those of a completely alien political faith; they have allowed their positions to be undermined and have thus unwittingly contributed to their own corruption.

If the Communists are a menace at all in this country, it is not to the government in any immediate sense but to the entire liberal movement, political and cultural, which they have until recently penetrated with such success. I say "until recently" because the utter intransigence of current Russian diplomacy—and consequently of Communist policy here—has alienated many erstwhile fellow-travelers and made it more difficult for the party to work its will in popular organizations.

BYOND this reliance on stealth and infiltration as political *tactics*, the Communists are distinguished from other American political groups by the very nature of their over-riding purpose. Indeed, it is this purpose that determines the tactics. I am not referring now either to their theoretical and ultimate goal of establishing a socialist order, which in fact plays almost no part in their activity, or to their objectives of the moment, such as the wrecking of the Marshall Plan and the defeat of Harry Truman. I mean, rather, the determined, methodical, utterly consistent and unvarying purpose of furthering the national interests of the Soviet Union. The evidence on this count is so overwhelming by now that not even the wilfully blind can any longer suggest that the faithful echoing of the Soviet line by American Communists is merely a remarkable coincidence.

Consider, as one example out of scores, the typical metamorphosis of the Communist-managed American League Against War and Fascism, established in 1932 to "stop the war machine," as the slogan went. When the Comintern came forth with the concept of the Popular Front in support of collective security, the organization, retain-

ing the same management, simply became the American League for Peace and Democracy, dedicated to "stopping aggressor nations." Hardly had Molotov signed the Soviet-Nazi pact in 1939, with the full understanding that it would instantly free the chief of those same "aggressor nations" for action, when the League over here gave way to the American Peace Mobilization, which violently opposed American efforts to hinder Nazi aggression through conscription and lend-lease. And again when Hitler turned against Russia two years later, the American Peace Mobilization immediately dissolved itself and sent its members rushing into an all-out campaign in support of a war suddenly become democratic.

It would take a volume to set forth these "coincidences" in their overwhelming totality. But only the most simple-minded would require such documentation at this late date. For others it should be enough to refer to the constitution of the now technically defunct Communist International, Paragraph 21 of which reads as follows: "Those party members who, on principle, reject the conditions laid down by the Communist International are to be expelled by the party." The American party, with Stalin's blessing, officially withdrew from the Communist International in November 1939, when American legislation would have made it possible to prosecute its members, along with the Nazi Bundists, as seditious foreign agents. The move protected their legal position but has made not the slightest difference in their unwavering loyalty to Kremlin policy from that day to this. The Comintern itself was dissolved by Stalin in May 1943, primarily to combat German propaganda to the effect that the Allies were bent on bolshevizing the world, and to smooth relations with the Western powers during the war. Its subsequent revival, on a limited scale as an informational clearing house, was hardly necessary to keep the various national parties in line. It was not until the French Communist Jacques Duclos, with Moscow's approval, cracked the whip on the other side of the Atlantic that Communists here sud-

denly discovered that their revered leader, Earl Browder, was a wrecker, reversed his whole policy, and cast him into the political night. Similarly, when Bulgaria's Communist leader Dimitrov appeared recently to be pressing too hard for a regional bloc of Slav states (which might at some future time challenge Russian influence in the Balkans) he was quickly called to task in *Pravda*; and just as quickly the Bulgarian party backtracked and explained that it hadn't meant a real bloc at all and that no such thing was necessary.

THE comparatively low ebb at which the Communists now find their fortunes in the United States—largely as a result of this blatant devotion to a foreign state—is no measure of the indirect influence they still exert over some liberal minds. The era of the Popular Front has left a legacy of concepts that are clearly still at work in the field of civil rights under discussion. It is a tribute to the skill, persistence, and truculence of Communist propaganda that many Americans have come to uphold certain "rights" that are not rights at all, and some of which make no sense in this or any other kind of political society. For example:

1. *The right of anonymity.* The idea here appears to be that to ask a man in public whether he is a Communist is a violation of the secret ballot, a breach of his constitutional rights, and, generally speaking, a blasphemy against the democratic faith. The reverse, of course, is true. Secretiveness and conspiracy are the essence of the tyrannical state, but are incompatible with the practice of democracy, whose life blood is the free and open interchange of ideas. To quote from Morris Ernst, a veteran champion of civil rights who now finds himself in conflict with his absolutist colleagues: "The marketplace of thought is no longer free when competitors may enter it anonymously and fight democracy while they hide under the cloak of democracy." Technically, the right of anonymity, so far from having a legal existence, is expressly denied in the whole system of enrollment

involved in party primaries. To have a hand in the nomination of a Republican or Democratic candidate, a voter must declare himself an enrolled member of one of those parties, which he does by signing, in the polling booth, a declaration that he intends to vote the appropriate ticket in the ensuing election. Lists of these enrolled party voters are compiled, by district, and may be had for the asking, or for a small fee, at any Board of Elections. This does not prejudice the right to a secret vote, since no one is obliged to register by party. It merely assures that people who wish to identify themselves with a party to the extent of helping to choose its candidates will do so without concealment. (From none of these facts, however, is it to be inferred that a congressional committee has the right to question citizens publicly about their politics in the absence of a clear and legitimate purpose. Such a purpose might be the intention to propose germane legislation, but surely not to bring about a man's dismissal from private employment.)

2. *The right to belong to any and all organizations.* Not even the Communists have the effrontery to claim this on legal grounds, but they have so thoroughly intimidated and befogged the more vulnerable type of liberal mind that in certain progressive circles it is considered treason to democracy to exclude Communists from organizations avowedly dedicated to democratic causes. The argument is, first, that this is a form of red-baiting, the arch sin; second, that it divides the forces of "light"; and third, that once an individual or organization embraces the belief that you can't work with the Communists, he or it is headed straight for damnation and a spiritual affinity with the Reverend Gerald L. K. Smith. From its founding a year ago, the liberal Americans for Democratic Action has been determined to keep out Communists for the simple and normally persuasive reason that their entire philosophy, not to mention their current political line, is utterly at variance with the organization's; and it is for this very reason that the ADA is damned by

those liberals who are so steeped in the psychology of the Popular Front that such essential discrimination appears only as a kind of persecution. I once asked a confirmed fellow-traveler just how the Communist party would feel about admitting an ADA member in the impossibly hypothetical case that one would care to join. "That's entirely different," she said. "The Communist party has its own philosophy and long-range objectives"—a privilege evidently not to be credited to the rest of us.

Akin to this particular Communist claim is the insistence not merely on the right of free speech, which is certainly not contested here, but on the highly questionable "right" of an individual to speak at private gatherings of his choice, however unwilling they may be to hear him. New Yorkers may recall the recent instance of a Congressional candidate who had been invited to address a community house forum only to find the invitation canceled when the sponsors learned more of the nature of his political history and affiliations. The matter appears to have been bungled, and the organization would doubtless have done better to let its invitation stand. But the clamor that the candidate's right of free speech had been violated was typical of the specious approach made even to this most fundamental of all rights.

3. *The right to a government job.* That a person can be dismissed from government service in such a way as to prejudice his chances for making a living in private life is beyond denial. However, the manifest importance of establishing fair dismissal procedure—fair to the individual and fair to the government—should not be clouded by any question as to an individual's "right" to hold government office. Seth W. Richardson cleared the air on this point when he took over the chairmanship of the newly created Loyalty Review Board. "Legally," he said, "the government is entitled to discharge any employee for reasons which seem sufficient to the government, and without extending to such employee any hearing whatsoever. . . . We believe that the rights

of the government in that respect are at least equal to those possessed by private employers." In this view, as has been pointed out by Arthur Krock, Mr. Richardson had behind him the force of a classic decision by the late Oliver Wendell Holmes, certainly no laggard in the protection of civil rights. Deciding the case of a policeman dismissed for political activity, Justice Holmes wrote: "The petitioner may have a constitutional right to talk politics, but he has no constitutional right to be a policeman. . . . There are few employments for hire in which the servant does not agree to suspend his constitutional right of free speech, as well as idleness, by the implied terms of his contract. The servant cannot complain, as he takes the employment on the terms which are offered him. On the same principle the city may impose any reasonable condition upon holding offices within its control." (*McAuliffe v. the City of New Bedford*, Jan. 6, 1892, Supreme Judicial Court of Massachusetts.) Communists as well as liberals might well have pressed those words on the late Mayor La Guardia ten years ago when they were trying to get him to rid New York's police force of the Christian Front followers of Father Coughlin.*

4. *The right of revolution.* In support of this concept, advanced only in lofty theoretical circles, reference is commonly made to the Declaration of Independence, the works of English political philosophers going back to 1688, and a few key passages from Jefferson and Lincoln. In particular, it is recalled that Jefferson once remarked

*The criteria applied in the case of government jobs cannot, of course, be carried over to the field of private employment without opening the door to insufferable abuses and jeopardizing the whole structure of job security so painfully built up by the trade union movement. The complexities of the problem cannot be fairly treated here, but even with the most zealous regard for political liberty it is not sensible to expect a voluntary political, educational, or social welfare organization devoted to a particular purpose or program to retain an employee found to be actively engaged in subverting its aims and objectives. Yet this, too, has been asked in the name of civil liberties.

that "the tree of liberty must be refreshed from time to time with the blood of patriots and tyrants"; and that on another occasion he invoked the Lord to "forbid that we should ever be twenty years without . . . a rebellion." I have no wish to question the self-evident truth, set forth in the Declaration, that "whenever any form of government becomes destructive of these ends [the rights to life, liberty, and the pursuit of happiness] it is the right of the people to alter or to abolish it, and institute new government." But while the Constitution provides the means of altering the government, it most assuredly provides no right to abolish it. No instrument of government does that, because no government can at any time contemplate itself in the role of a destroyer of men's "unalienable rights." Revolution is a right that men will of necessity assume if long enough subjected to tyranny, but it is a natural right stemming from the concept that government derives its power from the consent of the governed, and not a right specifically conferred by the state.

It is fatuous, therefore, and paradoxical for revolutionists to argue, in effect, that in order to prove itself democratic a government must share their view that it has become tyrannical and must conspire with them in its own destruction by facilitating their activity. The destruction of the government is an end they will have to accomplish strictly on their own power, if they are intent on doing so, and at the risk that failure in such enterprises generally entails. Washington, fresh from a revolution of his own, effectively nullified the right of Daniel Shays and his men to resort to armed rebellion, though they could have made out a good case for it. And Lincoln, for all his statements that whenever a people "shall grow weary of the existing government, they can exercise . . . their revolutionary right to dismember or overthrow it," nevertheless fought a bloody war to prevent just such dismemberment. It need hardly be pointed out, perhaps, that those who invoke the "right of revolution" here will often defend any degree of tyranny in other

countries as a legitimate protection of the state against those conspiring to overthrow it.

RECOGNIZING the spuriousness of some of the Communist claims, sincere liberals nevertheless find themselves in a dilemma. They must steer a course between the hysteria whipped up by the Communists themselves, for purposes having little to do with civil liberties, and a repressive spirit in high places that can all too easily get out of hand. They remember the classic story of the naked Dukhobor pursued by the policeman. Finding himself handicapped in the chase by the burden of his clothes, the representative of the law proceeded to strip off his garments one by one and finally overtook his quarry—but by that time no one could tell which was the Dukhobor and which the policeman.

One might think that it was both possible and practical for the policeman in the story to rip off his jacket, if necessary, and perhaps even shed his shirt. But no, the absolutists tell us, once he begins the stripping process, it is inevitable that in the heat of the chase he will proceed to the ultimate. (Because boiling water scalds, one must not use hot water to clean a cut.) So it is that libertarians of this school prefer to let the "Dukhobors" run wild rather than risk the possibility that the state might reduce itself to their level in the course of pursuit. It is this same point of view that accounts for the insistence of Britain's Home Minister, Chuter Ede, on letting the followers of Oswald Mosley hold incendiary meetings in the East End of London—a mechanical balancing of the right of free speech for Mosley against the right of Britain's Jews to the security and dignity of their persons. So it was, too, that the Weimar Republic presented its head to the National Socialists on a swastika-decorated platter. And it is in this same spirit that Arthur Garfield Hays could say, only a few weeks ago: "We don't have to devise new ways of dealing with Communists. We have a piece of slang in this country—a catchphrase—that's older than Communism. It goes, 'Let the guy

talk—it's a free country, ain't it?' That's good enough for me."

I am afraid it's not good enough for others of us who are as devoted to democracy as Mr. Hays unquestionably is. Perhaps it would be good enough if the Communists really preached what was in their minds instead of working deviously to pervert democratic institutions to the purposes of the Soviet Foreign office. New methods of dealing with the Communists *are* in order—and it is only by accepting this as a fact that liberals have even a chance to see to it that those new methods do no violence to the democratic values they uphold. Liberals must understand that the absolutist civil rights position presents a double danger: it fosters the growth of totalitarianism by a self-defeating tolerance and by virtue of that very growth it stimulates repressive measures from the Right, which, in turn, endanger the whole structure of civil liberties.

Freed of the self-imposed burden of opposing any and every restraint on the Communists, however unofficial, liberals might re-examine the "rights" claimed by Communists, separating the real from the factitious.

Conceding then, as many already do, that Communists not only have no "right" to government jobs but are in fact incongruous in the role of trusted workers for a government they have every desire to undermine and supplant, liberals might concentrate their attention on how to eliminate them without doing injustice either to the Communists in their capacity as private citizens or to innocent suspects. Denying the "right" of Communists to belong to other political organizations, liberals might more readily defend the genuine right of Communists to maintain their own party openly and to speak freely in its name. Denying the "right" of the Communists to foment violence, liberals would be in that much better a position to defend the rights of all to advocate peaceable social change, however far-reaching. And finally, denying the "right" of anyone to propagandize with-

out responsibility, they would be able to sponsor effective governmental curbs on extremist groups without injuring the fabric of democracy.

ONE such curb well worth considering is the "disclosure" plan put forward by Morris Ernst. This proposal calls for legislation under which all propaganda groups, of whatever political complexion, would be forced to publish the sources of their funds, their rosters of membership, and an account of their disbursements. It would strip the nightshirts from the Klan as well as the liberal mask from the Communists. "We make every company offering securities for sale on the exchange tell us all about itself," Ernst points out. "We make newspapers publish their ownership. Why shouldn't we demand as much from organizations which now operate secretly to sell ideas and mail great quantities of propaganda literature to the public?"

Why not, indeed? Far from impairing civil rights, such a law would steal the thunder from the demagogues. It would deprive the Thomas committee of the chance to harry individuals for the sake of headlines. It would make unnecessary such objectionable regulations as the non-Communist oath required under the Taft-Hartley law. It would obviate the danger of letting the Attorney General decide, on the basis of his own secret investigations, which organizations are to be considered subversive in the process of determining a government worker's loyalty. It would save countless innocents from joining front groups created by the Communists for their own purposes and controlled by them to whatever extent they deem necessary. And it would prevent cowardly groups from flooding the mails with unsigned printed matter calculated to stir up racial antagonisms—or signed matter, when it comes to that. The vice-president of a bank who now slips an occasional contribution to a Dilling or a Gerald Smith will tighten up if he knows that his dubious munificence is to be a matter of public record.

THERE are legitimate objections, of course, to the Ernst plan, and its specific details call for some prudent investigation. It has been suggested, for example, that groups like the National Association for the Advancement of Colored People would find it hard to collect contributions in Southern communities if the names of donors were to be publicized. Yet Walter White, its chairman, favors the proposal on the theory that the loss of a handful of supporters who do not want to stand up and be counted is a small price to pay for the elimination of thousands of enemies concealed in the sheets of the Klan. It is worth noting, too, that a slightly modified version of the Ernst principle was incorporated in the recommendations of the President's Committee on Civil Rights, which numbered among its members representatives of both the CIO and the AFL.

A more serious threat to liberty under the Ernst proposal is the possibility that an individual member of the Communist party—or of any other minority political group, for that matter—would find himself deprived of a livelihood by virtue of an employer's blacklist. In this way a conformity would be enforced that could conceivably wreck the whole system of political democracy. The policeman would in fact be indistinguishable from the Dukhobor. But Ernst's proposal, as he himself readily admits, might well be modified to the extent of dropping the requirement to report full membership lists. The purpose of disclosure would be amply served by publicizing the source of an organization's major contributions—say, anything over one hundred dollars a year—together with full lists of officials, and a detailed account of expenditures. Front organizations would find it difficult to thrive under such restrictions, and the scurrilous little movements on the extreme Right would find their financial streams rapidly drying up.

It will be argued, of course, that even this degree of compulsory disclosure is a breach in the wall of our liberties—indeed,

Mr. Hays has already said so—but this is to assume that there is such a wall of absolutism in the first place, when obviously there is no such thing. The Post Office has no hesitation in barring obscene matter from the mails, citizens are not free to spread the word that a bank is about to close its doors, nor is it considered an exercise of freedom of speech to yell "Fire!" in a crowded theater when there is no fire. More pertinent, there is a law on the statute books of New York State even now making it mandatory for organizations that require an oath to file periodic statements with the government revealing their constitutions, by-laws, membership rolls, and lists of officers. And it would merely add to a long list of postal regulations to forbid quantity mailings that do not bear the sender's full name and address. Whatever its technical flaws and its need for modification, the Ernst plan suggests the kind of constructive measures a democracy can take for its own salvation once the discussion of civil liberties is cleared of the fog of absolutism.

THE obvious truth is that there can be no complete freedom short of anarchy. Everyone wants as much liberty for himself as possible, but the rational citizen realizes that his liberty must be curtailed at the point where it harms others or serves to curtail *their* liberty. The essence of the matter is not only to find that point of equilibrium, but to realize that this point *shifts*, depending on the political and economic health of a state, the complexity of its society, and the degree to which it faces an external menace. The fullest measure of liberty will normally be found where there is the greatest degree of social stability, which must be the prime objective of civil libertarians if they are not to operate in a vacuum. If in the achievement of that end, adjustments in political freedom must be made, they must assuredly be made with the greatest caution and without violence to the basic principles of a democracy—but caution need not mean paralysis.